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MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			EXAMINER NAJARIAN, LENA	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/816,152

Applicant(s)

KNAUS ET AL.

Examiner

Lena Najarian

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-59 is/are rejected.
- 7) ☒ Claim(s) 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 7/7/05. Claims 1-59 are pending. Claims 1, 8, 9, 11, 18-20, 23, 25-28, 30, 31, 37, 40, 41, 46, 51-53, 55, 56, and 58-59 have been amended.

Oath/Declaration

2. The objection to the oath/declaration is hereby withdrawn due to the substitute declaration filed 7/7/05.

Claim Objections

3. Applicant has failed to overcome the objection to claim 37.

Claim 37 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

In particular, it is not clear to the Examiner which aspects of the method Applicant is seeking to further define.

Claim Rejections - 35 USC § 112

4. Claim 40 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 40 recites a model in the preamble. However, the body of the claims appears to be directed to a method. It is unclear what Applicant seeks patent protection for. Clarification is required.

6. The rejection of claims 9, 11, and 41-45 under 35 U.S.C. 112, second paragraph, is hereby withdrawn due to the amendment filed 7/7/05.

Claim Rejections - 35 USC § 101

7. Claim 40 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Under the statute, the claimed invention must fall into one of the four recognized statutory classes of invention, namely, a process (or method); a machine (or system); an article of manufacture; or a composition of matter.

Claim 40 appears to be directed toward a business model. However, it is unclear as to which recognized statutory class of invention the "business model" of claim 40 is directed. In particular, a "business model" is not a process or method, as it lacks a series of steps. A "business model" is not a machine or system, as there is no specific recitation of machine or system components. A "business model" is not recognized as a composition of matter. A "business model" per se is merely a description of the operations of a business. Since these descriptions are typically fixed in some tangible medium (e.g., paper), a possible category for a "model" may be "article of manufacture". However, if the claimed business model fails to qualify as an "article of manufacture", the business model is merely a collection of data, which is not suitable for patent protection under 35 U.S.C. 101.

As discussed in the 35 U.S.C. 112, second paragraph rejection above, Applicant now recites a process claim. However, a business model does not qualify as being in the technological arts.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-11, 17, 30, 34-47, 51-55, and 57-59 are rejected under 35

U.S.C. 102(e) as being anticipated by Segal et al. (US 2001/0041991 A1).

(A) Claim 1 has been amended to now recite “a” collection of “patient-based” electronic medical records “containing medical information” of a plurality of persons and “one or more medical records of the collection possess a characteristic of non-repudiation such that the medical information contained within said medical records is verified as accurate and correct.” The Examiner respectfully submits that para. 106 of Segal discloses that the patient has ownership and control of her own medical record (the Examiner interprets this to be “patient-based”), para. 6 discloses a collection of medical information, para. 8 discloses accuracy of medical records, and para. 131 discloses verification of quality. As such, it is readily apparent that Segal discloses a collection of

patient-based electronic medical records containing medical information of a plurality of persons and one or more medical records of the collection possess a characteristic of non-repudiation such that the medical information contained within said medical records is verified as accurate and correct.

The remainder of claim 1 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(B) Claim 8 has been amended to now recite wherein "all of the medical records of the collection possess" the characteristic of non-repudiation. The Examiner respectfully submits that Segal discloses at para. 137, the retrieval of accurate medical records. As such, it is readily apparent that the medical records in the Segal invention possess the characteristic of non-repudiation.

(C) The amendments to claims 9, 41, and 58 were apparently made to overcome 112, 2nd paragraph issues set forth in the prior Office Action. However, these changes do not affect the scope and breadth of the claims as originally presented and/or in the manner in which the claims were interpreted by the Examiner when applying prior art within the previous Office Action. As such, these claims are rejected under the same rationale given in the prior Office Action, and incorporated herein.

(D) Claims 2-7, 10, 17, 34-36, 38-39, 42-45, 47, 54, and 57 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

(E) Claim 11 has been amended to now recite wherein "the medical information of" each certified medical record is certified "by a person to whom the medical record pertains,"

by the source from which said each medical record was obtained, by a system provider or by a combination thereof. The Examiner respectfully submits that Segal discloses at para. 8, that one of the main purposes of the Segal invention is for a more accurate medical records system. In addition, at para. 131, Segal discloses quality assurance checks to verify quality.

The remainder of claim 11 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(F) Claim 30 has been amended to now recite "determining accuracy and correctness of medical information within each medical record" and electronically inputting said "medical information within each" medical record into a secure computer database containing other medical records. The Examiner respectfully submits that at para. 84 and para. 137, Segal discloses a secure database that gathers and disseminates information related to patient medical records. In addition, at para. 8, Segal discloses accurate medical records. As such, it is readily apparent that Segal discloses accuracy and correctness of medical information and inputting medical information into a secure computer database.

The remainder of claim 30 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(G) Claim 37 has been amended to now recite "wherein the medical information contained within said medical record is more accurate and correct as compared to those sources from which the medical records were obtained." The Examiner respectfully submits that at para. 8, Segal discloses that the purpose of his invention is for more

accurate records. In addition, at para. 13, Segal discloses that the medical information is consolidated from various sources such as hospitals, clinics, HMOs, or practitioner's offices. As such, it is readily apparent that Segal discloses wherein the medical information contained within said medical record is more accurate and correct as compared to those sources from which the medical records were obtained.

The remainder of claim 37 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(H) Claim 40 has been amended to now recite "operating and maintaining" a secure database of medical records "containing medical information of many persons" and "accuracy and correctness of the medical information within at least one medical record is determined to be as good or better than exists at the source from which said at least one medical record was obtained." The Examiner respectfully submits that Segal discloses at para. 21, operating and maintaining. At para. 8, Segal discloses that the purpose of his invention is for more accurate records. In addition, at para. 13, Segal discloses that the medical information is consolidated from various sources such as hospitals, clinics, HMOs, or practitioner's offices. As such, it is readily apparent that Segal discloses operating and maintaining a secure database of medical records containing medical information of many persons and accuracy and correctness of the medical information within at least one medical record is determined to be as good or better than exists at the source from which said at least one medical record was obtained.

The remainder of claim 40 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(I) Claim 46 has been amended to now recite “a receiver” for receiving “the medical” information pertaining to said medical records from one or more senders; “a process for verifying that the medical information received is accurate and correct by at least vetting said medical information; a process for authorizing said senders and said additional receivers according to a set of rules; and a transmitter” for transmitting “at least” a portion of said medical records to one or more “additional” receivers. The Examiner respectfully submits that at para. 13, Segal discloses gathering medical records. At para. 131, Segal discloses quality assurance to verify diagnostic quality, para. 81 of Segal discloses authorizing accessing, and para. 21 of Segal discloses an Internet-based communication through which to transmit medical records. As such, it is readily apparent that Segal teaches a process for verifying that the medical information received is accurate and correct by at least vetting said medical information; a process for authorizing said senders and said additional receivers according to a set of rules; and a transmitter for transmitting at least a portion of said medical records to one or more additional receivers.

The remainder of claim 46 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(J) Claims 51-53 have been amended to merely remove means-plus-function language and/or to make the language of the claim smoother and more consistent. As such, the passages that were applied in the prior Office Action still address the limitations.

Art Unit: 3626

(K) Claim 55 has been amended to now recite wherein said non-repudiated medical records "of said one or more subjects" are primary for treatment of said "one or more" subjects "by health care providers not involved with creating said medical information."

The Examiner respectfully submits that at para. 15, Segal discloses that the patient controls the creation of the medical records. As such, it is readily apparent that the records in Segal may be created by the patient and not by health care providers.

The remainder of claim 55 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(L) Claim 59 has been amended to now recite wherein said medical records are owned "and controlled" by said subjects. The Examiner respectfully submits that Segal discloses at para. 14, patient ownership and control of the medical records.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Segal et al. (US 2001/0041991 A1) in view of Baker ("PCASSO: A Model for Safe Use of the Internet in Healthcare").

(A) Claim 12 has not been amended and is rejected for the same reasons given in the previous Office Action, and incorporated herein.

12. Claims 13-15, 20-22, 25-29, 32-33, and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segal et al. (US 2001/0041991 A1) in view of Malik (US 2001/0037219 A1).

(A) Claims 13-15, 21-22, 29, 32-33, and 48-50 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

(B) Claim 20 has been amended to now recite "wherein said plurality of medical records" complies with a federal standard of privacy and security "and the medical information of at least one medical record of the plurality has been vetted, such that the medical information of said at least one medical record is better than exists at a source site from which the medical record was obtained and thereby is not subject to repudiation." The Examiner respectfully submits that at para. 8, Segal discloses that the purpose of his invention is for more accurate records. In addition, at para. 13, Segal discloses that the medical information is consolidated from various sources such as hospitals, clinics, HMOs, or practitioner's offices. As such, it is readily apparent that the medical information of at least one medical record of the plurality has been vetted, such that the medical information of said at least one medical record is better than exists at a source site from which the medical record was obtained and thereby is not subject to repudiation.

The remainder of claim 20 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(C) Claim 25 has been amended to now recite which allows for non-repudiation of "the medical information" of said medical records. The Examiner respectfully submits that at para. 21 Segal discloses medical information.

The remainder of claim 25 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(D) Claim 26 has been amended to now recite wherein non-repudiated medical records are primary for treatment of the person to whom each medical record pertains "by health care providers." The Examiner respectfully submits that at para. 10, Segal suggests a comprehensive medical history for viewing by a physician. As such, it is readily apparent that Segal discloses health care providers.

The remainder of claim 26 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(E) Claim 27 has been amended to now recite wherein the "plurality of medical records complies with" the Health Insurance Portability and Accountability Act of 1996. The Examiner respectfully submits that at para. 3, Segal discloses a plurality of medical records.

The remainder of claim 27 is rejected for the same reasons given in the prior Office Action, and incorporated herein.

(F) Claim 28 has been amended to merely change claim dependency. As such, the passages that were applied in the prior Office Action still address the limitations.

13. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Segal et al. (US 2001/0041991 A1) in view of Shear (4,827,508).

(A) Claim 16 has not been amended and is rejected for the same reasons given in the previous Office Action, and incorporated herein.

14. Claims 18-19 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segal et al. (US 2001/0041991 A1) in view of Ertel (5,307,262).

(A) Claim 18 has been amended to now recite wherein "the medical information of at least one" medical record is vetted. The Examiner respectfully submits that at para. 6, Segal discloses medical information.

The remainder of claim 18 is rejected for the same reasons given in the previous Office Action, and incorporated herein.

(B) Claim 19 has been amended to now recite wherein "the medical information of" the vetted medical record. The Examiner respectfully submits that at para. 6 Segal discloses medical information.

The remainder of claim 19 is rejected for the same reasons given in the previous Office Action, and incorporated herein.

(C) Claim 31 has been amended to now recite "determining accuracy and correctness comprises vetting, identifying or linking errors or inconsistent information, or expunging clear errors in input." Segal does not expressly disclose wherein determining accuracy

and correctness comprises vetting, identifying or linking errors or inconsistent information, or expunging clear errors in input.

Ertel discloses identifying erroneous data in patient records (col. 9, lines 4-9 of Ertel).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Ertel within Segal. The motivation for doing so would have been to prevent erroneous data from being included in the record (col. 9, lines 4-9 of Ertel).

15. Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segal et al. (US 2001/0041991 A1) in view of Malik (US 2001/0037219 A1) as applied to claim 20 above, and further in view of Ertel (5,307,262).

(A) Claim 23 has been amended to now recite which allows for vetting of "the medical information of" said medical records.

The Examiner respectfully submits that at para. 6 Segal discloses medical information.

The remainder of claim 23 is rejected for the same reasons given in the previous Office Action, and incorporated herein.

(B) Claim 24 has not been amended and is rejected for the same reasons given in the previous Office Action, and incorporated herein.

16. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Segal et al. (US 2001/0041991 A1) in view of Joao (US 6,283,761 B1).

(A) Claim 56 has been amended to merely remove means-plus-function language and/or to make the language of the claim smoother and more consistent. As such, the passages that were applied in the prior Office Action still address the limitations.

Response to Amendment

17. The amendment to the claims filed on 7/7/05 does not comply with the requirements of 37 CFR 1.121(c) because claim 8's status identifier is incorrect ("currently presented" should be "currently amended").

Affidavits

18. Applicant has submitted an affidavit to remove Segal (US 2001/0041991) as a reference applied under 35 U.S.C. § 102(e)/103(a) in the previous Office Action. The declaration filed on 7/7/05 under 37 C.F.R. § 1.131 has been considered but is ineffective to overcome the Segal reference for the following reasons:

(i) MPEP Section 715.02 states the following:

The 37 CFR 1.131 affidavit or declaration must establish possession of either the whole invention claimed or something falling within the claim (such as a species of a claimed genus), in the sense that the claim as a whole reads on it. *In re Tanczyn*, 347 F.2d 830, 146 USPQ 298 (CCPA 1965).

In this case, the averred statements of William A. Knaus and Richard D. Marks and the exhibits attached thereto fail to establish either conception of and/or reduction to practice **of the whole invention claimed or something falling within the claim**. As such, it is respectfully submitted there is no clear nexus between the materials and the claimed subject matter. In particular, Applicant has not pointed out specific portions of the submitted materials directly tied to the elements or features that are being claimed. For example, to the extent that the Examiner understands the submitted materials, the product description of the PatientDirect system (which appears to be the closest item to the subject of the present invention) given at page 4 of the "Executive Summary" document makes references to elements not present in any of the recited claims, namely, an "Internet document transmission service", a "second opinion/discount broker strategy", and an "XML/HTTP protocol with encryption". The Examiner was unable to find, nor does Applicant point to, such features within the pending claims. As such, the Examiner cannot ascertain what invention was conceived and reduced to practice - the invention of the claims or some other invention?

(ii) The declarations of William A. Knaus and Richard D. Marks, dated July 7, 2005, alleging conception AND reduction to practice of the instant invention prior to the earliest filing date of the Segal reference make reference to "sections of the attached documents are highlighted to emphasize aspects of the instant invention..." (see second full paragraph of the declarations). However, the Examiner was unable to find any such highlighted materials in her review of the attached exhibits. Furthermore, even if there were highlighted portions, there may not be any clear nexus that ties the aforementioned highlighted materials to the subject matter of the instant claims. In particular, there is no evidence submitted that directly relates the alleged highlighted sections to the features explicitly recited in the claims.

Response to Arguments

19. Applicant's arguments filed 7/7/05 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 7/7/05.

(1) Applicant argues that at paragraph 13, which is in the background section, Segal is referring to the problem that "patients have no ownership or control with which to consolidate the records" and "without a personal stake, physicians rarely take the initiative to gather and integrate all records from a variety of physicians offices...." and that stating a problem absent a solution or even a potential solution is not a disclosure or suggestion of applicant's claimed invention.

(2) Applicant argues that it is alleged that Segal discloses that "wherein one or more medical record possesses the characteristic of non-repudiation" and that paragraphs 8 and 131 of Segal do not disclose or suggest non-repudiation according to applicant's claimed invention, which is described in the specification.

(3) Applicant argues that it is alleged that Segal discloses that "wherein said non-repudiated medical record is primary for treatment of the patient." Segal simply states that a "focused medical record is the cornerstone of comprehensive health care." This does not disclose or suggest primary records according to applicant's claimed invention. Applicant further respectfully notes that there is no discussion whatever of non-repudiation in Segal.

(4) Applicant argues that it is alleged that Segal discloses that "wherein each medical record is certified as accurate (para. 8 of Segal)." Applicant has reviewed paragraph 8

Art Unit: 3626

and respectfully disagrees. Paragraph 8 of Segal is simply a definition of medical records.

(5) Applicant argues that it is alleged that Segal discloses that "wherein each medical record is certified as accurate by the patient, by the source from which the medical record was obtained, by a system provider or by a combination thereof (para. 131 of Segal." Applicant has reviewed paragraph 131 and respectfully disagrees. Segal paragraph 131 refers to a process of quality assurance of images. This does not disclose or suggest certification according to applicant's claimed invention, which is more fully discussed in the instant specification at pages 15-17.

(6) Applicant argues that is alleged that Segal discloses that "vetting means, wherein said vetting means allows said subjects to supplement said medical records with information relating to accuracy of said medical records (para. 6 and para. 25 of Segal)." Applicant has reviewed paragraphs 6 and 25 and respectfully disagrees. Segal paragraph 6 refers to what might be found in a typical medical record. Paragraph 25 refers to "the patient having the option of giving a doctor access to view and update the information." This does not disclose or suggest vetting according to applicant's claimed invention, which is more fully discussed in the instant specification at pages 17-20.

(A) As per the first argument, Applicant fails to fully consider the reference. While the Examiner did cite a passage in the background section, it is readily apparent that Segal discloses a solution to the problem stated. The Examiner respectfully submits that Segal

teaches at para. 84, the gathering of patient medical information and at para. 106, Segal discloses gathering a patient's records from clinics and hospitals.

(B) As per the second argument, the Examiner respectfully submits that Segal does suggest non-repudiation. At para. 8, Segal discloses that the purpose of his invention is for more accurate records. In addition, at para. 13, Segal discloses that the medical information is consolidated from various sources such as hospitals, clinics, HMOs, or practitioner's offices.

(C) As per the third argument, according to Applicant's specification (page 17, lines 19-21), a primary record is merely a record "relied upon with regard to future treatments."

The Examiner respectfully submits that at para. 5, Segal discloses "providing physicians with the clinical data necessary to detect and successfully treat medical problems..." and providing a "focused medical record that presents a clear and thorough medical history." As such, it is readily apparent that Segal discloses a primary record.

(D) As per the fourth argument, the Examiner respectfully submits that Segal discloses accurate medical records at para. 8.

(E) As per the fifth argument, applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., certification according to applicant's claimed invention, which is more fully discussed in the instant specification at pages 15-17) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As such, the Examiner respectfully submits that the broadest reasonable interpretation of the term "certified as accurate" would include the quality assurance disclosed in Segal (note para. 131 of Segal).

(F) As per the sixth argument, the Examiner respectfully submits that "appended and updated" in para. 6 of Segal is a form of "supplementing." In addition, applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., vetting according to applicant's claimed invention, which is more fully disclosed in the instant specification at pages 17-20) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3626


extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ln
In
9-14-05


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600